

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/987,828

Art Unit: 2163

Filed: November 16, 2001

Confirmation no.: 7647

Applicant: Omid McDonald

Examiner: Hanh B. Thai

Title: Identifying Changed Records in a File Stored on an Electronic Token

Docket No.: 17625-3US

Customer No.: 020988

Mail Stop Appeal Brief - Patents

Commissioner of Patents

P.O. Box 1450

Alexandria, V.A. 22313-1450

Dear Sir/Madam:

REPLY BRIEF

This Reply Brief is submitted pursuant to the Examiner's Answer dated June 9, 2008, which was in response to the Appeal Brief filed on February 28, 2008 and the Supplemental Appeal Brief filed on March 20, 2008.

Status of Claims

Pursuant to the Examiner's Final Office Action mailed May 30, 2007, the status of the claims is as follows:

claims 2-22 and 24-25 stand rejected under 35 U.S.C. 103(a); and

claims 1 and 23 were previously cancelled.

The rejections of claims 2-22 and 24-25 are being appealed.

Grounds of Rejection to be Reviewed on Appeal

The Applicant seeks to appeal the following grounds of rejection:

1) whether claims 2-22 and 24-25 are unpatentable under 35 U.S.C. 103(a) over U.S. Patent No. 6,968,209 to Ahlgren et al. (hereinafter “Ahlgren”) in view of U.S. Patent No. 6,879,989 to Dietrich et al. (hereinafter “Dietrich”).

Argument

In the Examiner's Answer to the Appeal Brief, dated June 9, 2008, the Examiner has maintained all the claim rejections of the Final Office Action. The Examiner's citations against the claims are identical to those presented in the Final Office Action, and for which the Applicant has already submitted arguments in the Appeal Brief. The Examiner has further responded to the Applicant's arguments submitted in the Appeal Brief, and comments in reply to the Examiner's response follows.

Claim Rejections - 35 USC 103

The Examiner has rejected the Applicant's previous argument that "Ahlgren fails to teach or fairly suggest that a checksum is calculated in the electronic token as required by the claims" on the basis that claim 6 does not specify "multiple checksums". In the previous argument, the term "checksum" was used in order for the argument to be understood with regards to Ahlgren. "checksum" is a general term, as used by Ahlgren, that may also refer to the change detection code (CDC), as explained in paragraph [0038] of the present application. Hence, the argument is that claim 6 specifies a change detection code (i.e., a checksum) being calculated in the electronic token, which is not taught or suggested by Ahlgren.

There are at least three features that distinguish the present claims from the teachings of Ahlgren:

- a) in the present claims, the CDC calculation and its comparison step are carried out inside the electronic token;
- b) Ahlgren compares two stored CDCs, whereas in the present claims the comparison is done between a real-time calculated CDC and a stored CDC; and
- c) in the present claims, contents of a changed record are sent using a SMS message to a registering element.

The Examiner alleges that Ahlgren teaches calculating the CDC in the electronic token and comparing the calculated CDC with a stored CDC. It appears that the Examiner has not fully appreciated feature a) above. In the cited quotation (col. 2, lines 64-67), Ahlgren fails to disclose that the CDC is calculated inside the SIM card (that is, the electronic token). It is only recited that the SIM CDC is calculated based on its overall database. The CDC stored in the log file of the mobile phone is clearly not calculated inside the SIM card. It would be clear to a person skilled in the art that it would make no sense to carry out this calculation inside the SIM card for a CDC that is stored in the mobile phone - the mobile phone has significantly more resources than the SIM card, and it would be unrealistic to handle the tasks of the mobile phone with the SIM card. A person skilled in the art would thus derive from Ahlgren that the CDC of the log file is calculated by the mobile phone, not the SIM card. Due to this difference of resources, the person skilled in the art would also be led to carry out the CDC calculation for the SIM card database in the mobile phone also.

Feature b) above also does not appear to have been considered by the Examiner. According to the present claims, a CDC is previously calculated and stored in the electronic token. A later CDC is then calculated in real-time in the electronic token, and compared to the previously stored CDC. In contrast, according to Ahlgren, CDCs are calculated and stored respectively in a mobile phone and in the SIM card. These CDCs are compared at a later stage. Hence, Ahlgren teaches the comparison of two stored CDCs, rather than the one real-time calculated CDC and one stored CDC of the present claims. As a result, Ahlgren involves the use of two memories for storing the CDC – one in the mobile phone and one in the SIM card. Ahlgren does not benefit from the advantage of the present claims, which involves only one memory for storing one CDC.

The Applicant would further like to point out to the Examiner that the comparison step according to Ahlgren and the comparison step of the present claims have distinct functions in practice. According to the present claims, a mismatch between the real-time calculated CDC and the stored CDC (which acts as a backup) leads to an update of the stored record.

Turning now to Ahlgren, consider the case where the SIM card is synchronized with the log file 210 inside the first mobile phone 20. Their CDCs are thus identical. After that, the SIM card is inserted inside the second mobile phone 300. Records are modified inside the SIM card, and the SIM card is synchronized with the change log 305. The second mobile phone is then synchronized with the PC 10. The records are then backed up and the backup stored inside the PC is now up to date. The SIM card is inserted inside the first mobile phone again. As taught by Ahlgren, the CDC of the log file in the first mobile phone is compared to the CDC of the SIM card. These CDCs no longer match since the SIM card has been synchronized with the change log. However, since the records in the PC are up to date, no record is sent to the PC. Hence, the comparison of CDCs according to Ahlgren only allows identification of a mismatch between the records of the mobile phone and the SIM card. This comparison cannot conclude that the PC is not up to date, unlike the comparison of the present claims.

Thus, the CDC comparison of the present claims has a distinct function from that of Ahlgren, since according to the present claims a mismatch between the calculated CDC and the stored CDC necessarily means that the backup in the registering element is not up to date.

Feature c) also is not taught by Ahlgren or Dietrich. The Examiner admits that Ahlgren does not teach preparing a SMS message in the electronic token and sending the message to a registering element, as presently claimed. The Examiner relies on a combination of Ahlgren and Dietrich to teach this feature. However, Dietrich only focuses on a SIM card update triggered by the network. As previously argued, Dietrich fails to suggest preparing a SMS message in the electronic token and sending the SMS message from the electronic token to a registering element, where the SMS message includes a content of at least one record which has been identified as changed, as presently claimed. According to Dietrich, an update is sent by a SMS message from the network towards the SIM card. Although Dietrich teaches that the SIM card also sends an SMS message as acknowledgement of receipt (col. 3, lines 13-17), this SMS message sent from the mobile phone is merely an acknowledgement, and does not contain any changed contents, unlike the present claims.

Thus, Dietrich does not handle any SIM card backup at all. Based on the teaching of Ahlgren, a person skilled in the art is taught to use a personal computer (PC) connection with a mobile phone and to use a checksum to synchronize between the two. There is no suggestion for a person skilled in the art to use SMS messages instead of a direct PC connection. Combining Dietrich with Ahlgren would result in a network sending record updates to the mobile phone through the PC of the user, which would not make sense, since the network is constantly in contact with the mobile phone already.

The Examiner alleges that a person skilled in the art would be motivated to combine Ahlgren with Dietrich in order to enable efficient/reliable short messaging. However, Ahlgren is concerned with synchronization between a PC and a mobile phone, as shown in Figure 1. Ahlgren is not concerned with SMS messaging at all, let alone the efficiency of short messaging. Applying Dietrich, which is concerned with providing a method of distinguishing between an update short message and a normal short message, would not advance the purpose of Ahlgren in any way, nor would enabling efficient short messaging have any influence on how a PC and a mobile phone is synchronized. Dietrich and Ahlgren have entirely different purposes, and a person skilled in the art would not have any reason to combine the two, except with hindsight analysis. The Applicant respectfully asks the Examiner to explain and support the position that a person skilled in the art would find it obvious to combine these references, in view of the above arguments.

Conclusion

In view of the foregoing arguments, it is the view of the Applicant that the present claims are patentable for the following reasons:

a) Ahlgren and Dietrich, whether taken alone or in combination, fail to teach or suggest all the features of the present claims.

b) Ahlgren and Dietrich are concerned with entirely different areas and hence are not suitable to be combined in the manner suggested by the Examiner.

The Board of Appeals is thus respectfully asked to withdraw the claim rejections under 35 U.S.C. 103(a).

If any extension of time under 37 C.F.R. 1.136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. 1.136, please charge such fees to our Deposit Account No. 195113.

Respectfully submitted,

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Date: August 8, 2008

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